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BY ECF

Honorable Ona T. Wang
United States Magistrate Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Pavon Hernandez et al v. Gemini Diner Inc., et al; 20-cv-4741

Dear Judge Wang:

This firm represents Plaintiffs in the above-referenced action. We write jointly with Defendants in anticipation of the pre-settlement conference currently scheduled for December 9, 2020, setting forth our respective positions further to discussions held during this case's Initial Conference on November 17, 2020.

Plaintiffs respectfully submit that previous cases brought by their former coworkers against these defendants should have no bearing on the instant case. All settlements reached previously were on an individual basis before any motions for collective or class certification were made. Nothing which occurred before this time should have an impact on the current Plaintiffs' individual rights under the FLSA and New York Labor Law. In the undersigned counsel's experience, some businesses find it more cost effective to risk paying out wage and hour settlements every few years than to comply with the law. As the previous cases against these Defendants settled before discovery had taken place, Plaintiffs have no evidence to the contrary. As such, Plaintiffs would request that some discovery take place before any mediation or settlement conferences are held.

Defendants respectfully submit that due to the repeated lawsuits brought by former employees, any settlement negotiations at this juncture would not be productive and would prefer to delay any mediation or settlement conferences until such time as some discovery has taken place. Defendants also firmly believe the claims are not supported by documents, and that, in fact, the documentary evidence will support their defense of the claims. Having faced multiple wage and hour actions with the identical claims brought by Plaintiffs' counsel's firm, Defendants are reluctant to engage in settlement at this juncture, particularly because they feel it will merely encourage additional actions without regards to the merits of the claims.

We thank the Court for its attention to this matter.

Respectfully Submitted,
/s/ Clela Errington
Clela A. Errington, Esq.
MICHAEL FAILLACE & ASSOCIATES, P.C.
Attorneys for Plaintiff